

### **REMARKS**

The Office Action of February 4, 2004 has been carefully considered and the following response prepared. Claims 1, 3, 4, 6-8, 12 and 13 are pending in the application. Claims 6 and 13 have been amended.

At page 2 of the Office Action, the Examiner rejected claims 1, 3, 4, 6-8 and 12-13 under 35 USC 112, second paragraph as indefinite. The Examiner indicated that claim 1 is vague and indefinite in the recitation of “in the presence of a ... HPPD inhibitor”, since it is doubted that in the “presence” of large amounts of any inhibitor the reaction would succeed.

The Examiner’s remarks that it is doubtful the reaction would proceed in the presence of large amounts of any inhibitor are purely speculative and unsupported by any evidence. Indeed, the specification states at page 4, lines 20 and 21 that the first and second suitable enzymes are insensitive to HPPD inhibitors. In order to advance prosecution of the application, claim 1 has been amended to state that the HPPD inhibitor is present in the suitable reaction medium in an amount that does not inhibit the enzymatic activity of the first suitable enzyme or the second suitable enzyme. In Examples 1 and 2 in the specification, the HPPD inhibitor is present in an amount that does not inhibit HPP-oxidase or HPA-hydroxylase. Claims 3-4, 6-8 and 12-13 depend from claim 1 and are also amended by the amendment to claim 1.

Claims 1, 3-4, 6-8 and 12-13 were rejected as incomplete in the absence of a recovery step for the homogentisate product produced. Applicants traverse this rejection. The methods of claim 1 and dependent claims 3-4, 6-8, and 12-13 are complete without recitation of a recovery step for the homogentisate product produced. The specification at page 5, lines 3-10 states that the HMO can be isolated from the reaction medium and purified, or left in the reaction medium. When the HMO is left in the reaction medium, the reaction medium can be used as a nutrient medium for culturing plants, particularly plants which exhibit a natural or induced metabolic dysfunction of HMO biosynthesis. A recovery step in claim 1 is therefore not necessary to claim the complete process.

The phrase “can grow on HPA ...” in claim 6 was considered to be indefinite. The Examiner indicated that deletion of “can” would overcome the rejection. Claim 6 has been amended as suggested by the Examiner.

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Claim 13 was considered to be confusing because the origin of "protein extracts" is uncertain. The examiner suggested amending claim 13 to state "protein extracts from bacteria, yeast or plant cells" to overcome the rejection. Claim 13 has been amended as suggested by the Examiner.

Withdrawal of this section 112, second paragraph rejection is requested.

In view of the above, the present application is believed to be in a condition for allowance. Reconsideration of the application is requested and an early Notice of Allowance is earnestly solicited.

No fee is believed to be due. The Commissioner is hereby authorized to charge any fees which may be required in connection with this communication or credit any overpayment to Deposit Account Number 03-2775. A duplicate of this sheet is required.

Respectfully submitted,

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